

## CHAPTER 3

### INTERNAL COUNTY REGULATIONS

(The purpose of this Chapter is to provide for those ordinances regulating the conduct, powers, duties and compensation of County officers and employees.)

Article 1.	Code Of Ethics
Sec. 3-1.1	Construction
Sec. 3-1.2	Applicability
Sec. 3-1.3	Definitions
Sec. 3-1.4	Gifts
Sec. 3-1.5	Confidential Information
Sec. 3-1.6	Fair Treatment
Sec. 3-1.7	Conflicts Of Interest
Sec. 3-1.8	Contracts
Sec. 3-1.9	Requirements Of Disclosure
Sec. 3-1.10	Restrictions On Post Employment
Sec. 3-1.11	Violation; Penalties
Article 2.	Salaries Of Certain Officers
Sec. 3-2.1	Salaries Of Certain Officers
Article 3.	Salaries Of The County Council
Sec. 3-3.1	Salaries Of The County Council
Article 4.	Salaries Of Council Services Employees
Sec. 3-4.1	Salaries Of Council Services Employees
Sec. 3-4.2	Retroactive Application
Article 5.	Travel Allowance
Sec. 3-5.1	Per Diem Allowance For Travel Within The State
Sec. 3-5.2	Per Diem Allowance For Travel Out-Of-State
Sec. 3-5.3	Travel Allowance For Fractions Of A Day
Sec. 3-5.4	Administration //

### ARTICLE 1. CODE OF ETHICS

#### Sec. 3-1.1 Construction.

This Article shall be liberally construed to promote high standards of ethical conduct in County government. (Sec. 3-1.1, R.C.O. 1976)

#### Sec. 3-1.2 Applicability.

This Article shall apply to every nominated, appointed, or elected officer or employee of the County of Kauai, including members of boards, commissions and committees. (Sec. 3-1.2, R.C.O. 1976)

**Sec. 3-1.3 Definitions.**

When used in this Article the following words or phrases shall have the meaning given in this Section unless it shall be apparent from the context that a different meaning is intended:

(1) "Business" includes a corporation, a partnership, a sole proprietorship, a trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Controlling Interest" means an interest which is sufficient in fact to control, whether the interest be greater or less than fifty per cent (50%).

(4) "Employee" means any nominated, appointed or elected officer or employee of the County including members of boards, commissions and committees and employees under contract to the County, but excluding Councilmen.

(5) "Employment" means any rendering of services for compensation.

(6) "Financial Interest" means an interest held by an individual, his spouse or his minor children. A divorce or separation between spouses shall not terminate any relationship which is:

(A) An ownership in a business.

(B) A creditor interest in an insolvent business.

(C) An employment, or prospective employment for which negotiations have begun.

(D) An ownership interest in real or personal property.

(E) A loan or other debtor interest.

(F) A directorship or officership in a business.

(7) "Official Act" or "Official Action" means a decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

(8) "Official Authority" includes administrative or legislative powers of decision, recommendation, approval, disapproval or other discretionary action.

(9) "County Agency" includes the County, the Council and its committees, all executive departments, boards, commissions, committees, bureaus, offices and all independent commissions and other establishments of County government. (Sec. 3-1.3, R.C.O. 1976)

**Sec. 3-1.4 Gifts.**

(a) No councilman or employee of the County shall solicit, accept, or receive directly or indirectly any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action on his part. (Sec. 20.02, Art. XX, Charter; Sec. 25, C.O. 1971; Sec. 3-1.4, R.C.O. 1976)

(b) The prohibition against gifts in Section 3-1.4(a) shall not apply to:

(1) An occasional non-pecuniary gift, insignificant in value, or

(2) An award publicly presented in recognition of public service, or

(3) Any gift which would have been offered or given to him if he were not an official or employee. (Sec. 3-1.4, R.C.O. 1976)

**Sec. 3-1.5 Confidential Information.**

No councilman or employee of the County shall disclose information which by law or practice is not available to the public and which he acquires in the course of his official duties, or use the information for his personal gain or for the benefit of anyone. (Sec. 20.02, Art. XX, Charter; Sec. 3-1.5, R.C.O. 1976)

**Sec. 3-1.6 Fair Treatment.**

No councilman or employee of the County shall use or attempt to use his official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment for himself or others, including but not limited to the following:

(1) Seeking other employment or contract for services for himself by the use or attempted use of his office or position.

(2) Accepting, receiving, or soliciting compensation or other consideration for the performance of his official duties or responsibilities except as provided by law.

(3) Using County time, equipment or other facilities for private business purposes.

(4) Soliciting, selling, or otherwise engaging in a substantial financial transaction with a subordinate or person or business whom he inspects or supervises in his official capacity.

Nothing in this Article shall be construed to prohibit a councilman from introducing bills and resolutions, serving on committees or from making statements or taking action in the exercise of his legislative functions. Every

councilman shall file a full and complete public disclosure of the nature and extent of the interest or transaction which he believes may be affected by legislative action in compliance with the disclosure requirements of Section 3-1.9 (Sec. 20.01, Art. XX, Charter; Sec. 25, C.O. 1971; Sec. 3-1.6, R.C.O. 1976)

**Sec. 3-1.7 Conflicts Of Interest.**

(a) No employee shall take any official action directly affecting:

(1) A business or other undertaking in which he has a substantial financial interest; or

(2) A private undertaking in which he is engaged as legal counsel, advisor, consultant, representative, or other agency capacity.

Except that a department head who is unable to disqualify himself on any matter described in items (1) and (2) of this Section, will not be in violation of this Subsection if he has complied with the disclosure requirements of Section 3-1.9; and

Except that a member of a board, commission or committee, whose participation is necessary in order to constitute a quorum to conduct official business on any matter described in items (1) and (2) above, will not be in violation of this Subsection if he has complied with the disclosure requirements of Section 3-1.9.

(b) No councilman or employee shall acquire financial interests in any business or other undertaking which he has reason to believe may be directly involved in official action to be taken by him.

(c) No councilman or employee shall assist any person or business or act in a representative capacity before any County agency for a contingent compensation in any transaction involving the County.

(d) No councilman or employee shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim, or other transaction or proposal in which he has participated or will participate as a councilman or employee, nor shall he assist any person or business or act in a representative capacity for a fee or other compensation on a bill, contract, claim or other transaction or proposal before the Council or agency of which he is an employee or councilman.

(e) No employee shall assist any person or business or act in a representative capacity before a County agency for a fee or other consideration on any bill, contract, claim, or other transaction or proposal involving official action by the agency if he has official authority over that County agency unless he has complied with the disclosure requirements of Section 3-1.9. (Sec. 20.01, Art. XX, Charter; Sec. 25, C.O. 1971; Sec. 3-1.7, R.C.O. 1976)

**Sec. 3-1.8 Contracts.**

(a) A County agency shall not enter into any contract with a councilman or an employee or with a business in which a councilman or an employee has a controlling interest, involving services or property of a value in excess of five hundred dollars (\$500), unless the contract is made after competitive bidding.

(b) A County agency shall not enter into a contract with a person or business which is represented or assisted personally in the matter by a person who has been an employee of the agency within the preceeding six (6) months and who participated while in County office or employment in the matter with which the contract is directly concerned.

(c) This Section shall not apply to a personal contract of employment with the County. (Sec. 20.03, Art. XX, Charter; Sec. 3-1.8, R.C.O. 1976)

**Sec. 3-1.9 Requirements Of Disclosure.**

(a) The mayor, councilpersons, all department heads and deputies, members of boards and commissions and the purchasing agent shall, within thirty (30) days of assuming office, file with the Board of Ethics a list of all real property within the County in which he has any right, title or interest; a list of all business firms which contract for County business in which he has any interest; all places of employment, including part-time employment; and all sources and amounts of income, business ownership, officer and director positions, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies. Amendments to the list, including additions, deletions or changes in title, interest in property or of employment, shall be made within thirty (30) days of the occurrence of the amendment. The list shall be a matter of public record.

(b) All candidates for elective office shall, within seven (7) days of filing nomination papers, file with the Board of Ethics a list of all real property within the County in which he has any right, title or interest; a list of all business firms which contract for County business in which he has any interest; all places of employment, including part-time employment; and all sources and amounts of income, business ownership, officer and director positions, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies. Amendments to the list, including additions, deletions or changes in title, interest in property or of employment shall be made within seven (7) days of the occurrence of the amendment. The list shall be a matter of public record.

(c) The Board of Ethics shall prescribe the form or forms to be executed and shall fix the date when the initial disclosure must be filed.

(d) Any councilman who has a financial interest in any proposed legislation before the council shall disclose on the record of the council the nature and extent of the interest.

(e) Any employee who has a financial interest in any proposed legislative action of the council and who participates in discussion with or gives an official opinion or recommendation to the council shall disclose on the record of the council the nature and extent of the interests.

(f) In addition to the non-compulsory meetings that can be called by the chairman or by a majority of the Board of Ethics there shall be one (1) compulsory meeting of the Board of Ethics that shall be held annually on a date designated by the Board of Ethics for the purpose of reviewing and verifying all disclosure forms to insure that they have been kept current and that any modifications thereon have been duly recorded.

(g) Any violation of any of the provisions of this section shall, at the option of the Director of Finance, render forfeit and void the contract, work, business, sale or transaction affected. Any violation of any of the provisions of this section shall constitute cause for fine, suspension or removal from office or employment. (Ord. No. 142, May 7, 1969; Sec. 25, C.O. 1971; Sec. 3-1.9, R.C.O. 1976; Ord. No. 387, June 26, 1980)

#### **Sec. 3-1.10 Restrictions On Post Employment.**

(a) No former councilman or employee shall, within six (6) months after termination of his employment, assist any person or business or act in a representative capacity for a fee or other consideration, on matters in which he participated as a councilman or employee.

(b) No former councilman or employee shall, within six (6) months after termination of his employment, assist any person or business or act in a representative capacity for a fee or other consideration, on matters involving official action by the particular county agency or subdivision thereof with which he had actually served.

(c) This Section shall not prohibit any agency from contracting with a former councilman or employee to act on a matter on behalf of the County within the period of limitations stated herein, and shall not prevent that councilman or employee from appearing before any agency in relation to that employment. (Sec. 3-1.10, R.C.O. 1976)

#### **Sec. 3-1.11 Violation; Penalties.**

(a) In addition to any other penalty provided by law, any contract entered into by the County in violation of this Article is voidable on behalf of the County at the option of the Director of Finance, provided that in any action to avoid a contract pursuant to this Section the interests of

third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within sixty (60) days after the determination of a violation under this Article. The County Attorney shall have the authority to enforce this provision.

(b) Any favorable county action obtained in violation of any of the standards for councilmen or employees is voidable in the same manner as voidable contracts as provided for under Section 3-1.11(a); and the County by the County Attorney may pursue all legal and equitable remedies available to it.

(c) The County Attorney may recover any fee, compensation, gift or profit received by any person as a result of a violation of these standards by a councilman or employee or former councilman or employee. Action to recover under this Subsection (c) shall be brought within two (2) years of the violation under this Article.

(d) Any violation of any of the provisions of this Article shall constitute cause for fine, suspension or removal from office or employment. (Ord. No. 142, May 7, 1969; Sec. 25, C.O. 1971; Sec. 3-1.11, R.C.O. 1976)

## ARTICLE 2. SALARIES OF CERTAIN OFFICERS

### Sec. 3-2.1 Salaries Of Certain Officers.

(a) Effective upon approval and as further provided herein, the annual salaries, payable semi-monthly, of certain county officers and employees shall be as follows:

<u>POSITION</u>	<u>Effective Upon Approval</u>
Mayor	\$73,118
Administrative Assistant	\$70,193
County Engineer	\$69,371
Deputy County Engineer	\$41,622 to \$64,168
Director of Finance	\$69,371
Deputy Director of Finance	\$41,622 to \$64,168
County Attorney	\$69,371
Deputy County Attorney	\$41,622 to \$64,168
Prosecuting Attorney	\$69,371
Deputy Prosecuting Attorney	\$41,622 to \$64,168
Chief of Police	\$66,073
Deputy Chief of Police	\$36,671 to \$61,118
Planning Director	\$69,371
Deputy Planning Director	\$41,622 to \$64,168
Director of Personnel	\$66,073
Manager and Chief Engineer, Department of Water	\$69,371
Deputy Manager-Engineer, Department of Water	\$41,622 to \$64,168
Fire Chief	\$66,073
County Clerk	\$66,073
Deputy County Clerk	\$36,671 to \$61,118

<u>POSITION</u>	<u>Effective Upon Approval</u>
Director of Economic Development	\$64,731
Housing Administrator	\$64,731
Director of Liquor Control	\$55,000
Director of Transportation	\$55,000

(b) The starting salary and increases in salary of any deputy shall be established at any figure within the range set forth above as recommended by the respective department head and approved by the Mayor with the exception of the Deputy County Clerk whose salary shall be recommended by the County Clerk and approved by the County Council.

The above recommendation by department heads shall take into consideration and be supported by documentation which shall include the following:

New Hires: education, years of experience and qualifications coming into position.

Current and future incumbents: years of service and performance. Performance shall be quantified and documented on an appropriate evaluation form which shall be developed and/or approved by the Director of Personnel Services.

(c) Upon approval by the Mayor, the respective administrative department head evaluations and recommendations for starting salary and increases in salary for any deputy shall be submitted to the Council and Salary Commission for information. (Ord. No. 124, August 18, 1965; Ord. No. 138, August 7, 1968; Ord. No. 140, February 3, 1969; Ord. No. 141, March 5, 1969; Ord. No. 179, July 3, 1973; Ord. No. 190, August 22, 1973; Ord. No. 228, October 18, 1974; Ord. No. 258, July 3, 1975; Ord. No. 279, April 14, 1976; Sec. 3-2.1, R.C.O. 1976; Ord. No. 327, September 26, 1977; Ord. No. 343, March 8, 1978; Ord. No. 352, October 24, 1978; Sec. 3-2.1, 1978 Cumulative Supplement; Ord. No. 367, July 1, 1979; Ord. No. 380, April 2, 1980; Ord. No. 411, July 1, 1981; Ord. No. 458, April 25, 1984; Ord. No. 468, September 26, 1984; Ord. No. 470, January 21, 1985; Ord. No. 479, September 12, 1985; Ord. No. 545, August 3, 1988; Ord. No. 587, July 25, 1991; Ord. No. 669, January 11, 1995; Ord. No. 678, March 20, 1995; Ord. No. 681, March 28, 1995; Ord. No. 703, May 31, 1996)